

CORNELIA V. LANE

FEBRUARY 27, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 9395]

The Committee on the Judiciary, to whom was referred the bill (H. R. 9395) for the relief of Cornelia V. Lane, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendment is as follows:

Page 1, line 5, strike out the figures "\$25,000", and insert in lieu thereof "\$1,500".

The purpose of the proposed legislation is to pay the sum of \$1,500 to Cornelia V. Lane, of North Hollywood, Calif., in full settlement of all claims against the United States. Such sum represents compensation for personal injuries and expenses incident thereto sustained as the result of burns received after an operation performed on her in the United States Naval Hospital, Yokosuka, Japan, on July 8, 1954. The author advises that an attorney is involved and is entitled to a fee.

We cite the opinion of Dr. Carl E. Chism:

This lady has an area on the lateral side of the left lower leg and ankle which is covered by a skin graft which extends from about the mid-third to just below the external malleolus and is approximately 3 inches in width. This graft is soft and pliable and is not adherent to the bones or tendons at any point. The graft is more deeply pigmented than the surrounding normal skin, and the pigmentation varies from area to area through the graft. There has been some spotty partial loss of the subcutaneous fat which makes the area somewhat uneven. There is no evidence of any surface irritation or ulceration, and there has been none since the graft matured.

There are some small varicose veins below the graft on the lateral surface of the foot. There are also some small varicose veins on both

legs from the thighs down, mainly around the popliteal spaces, and in the calves of both legs. There is a well healed soft, pliable scar of a donor site on the anterior surface of the right thigh with some thickened scarring of the upper central portion, this is white in color, is not adherent and is not irritated. There is no limitation of motion of the ankle joint. This lady has an incidental finding of complete flattening of both the longitudinal and transverse arches of both feet.

It is my opinion that the present skin graft is functionally very satisfactory, and should give excellent coverage for the remainder of her life. The appearance leaves something to be desired, both as far as the depression of the area and the increased pigmentation are concerned. However, replacement of this graft with another skin graft would be no more likely to produce a normally pigmented graft than the present one. With this satisfactory functional result it is not feasible to transfer a pedicle flap of skin and fat for cosmetic reasons. It is my opinion that no further surgery should be done on this area, that the situation is stationary and will become neither better or worse over a period of years, and that the only disability is from a cosmetic standpoint. The pigmentation and depression will be permanent.

Your committee has given careful consideration to the report from the Department of the Navy and statement made by Dr. Chism and in view of these statements your committee is of the opinion that the recommendation of the Department of the Navy is a just one, and the bill is amended to appropriate the sum of \$1,500 to her for personal injuries, medical and related expenses. There is nothing contained in the file to justify a larger sum. The report from the Navy Department gives in detail the history of the proposed legislation and is as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
OFFICE OF LEGISLATIVE LIAISON,
Washington, D. C., December 16, 1957.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter to the Secretary of the Navy dated August 23, 1957, requesting comment on H. R. 9395, a bill for the relief of Cornelia V. Lane.

The purpose of the bill is to authorize and direct the Secretary of the Treasury to pay to Cornelia V. Lane the sum of \$25,000. The payment is to be in full settlement of all claims against the United States for compensation for injuries and permanent disability which she sustained as a result of being burned after an operation performed on her in the United States Naval Hospital, Yokosuka, Japan, on July 8, 1954.

The investigative report of the incident reveals that on July 7, 1954, Mrs. Lane, the wife of James B. Lane, RM2, USN, was admitted to the United States Naval Hospital, Yokosuka, Japan, for the performance of a varicose vein operation on her right leg. The operation was performed under anesthesia at 10:30 on July 8, 1954, and completed at 11:17. At about 11:30 Mrs. Lane complained that she was cold and a hot water bottle was placed next to her left leg at the direction of

the ward nurse. At 1 o'clock in the afternoon a burn of the left leg was noted and treatment was administered.

On July 12, 1954, Mrs. Lane was discharged from the hospital at her own request and returned to her home under treatment. On July 16, 1954, Mrs. Lane was readmitted to the hospital for further treatment of the burned area which showed evidence of infection. The infection was properly treated and the burned area was skin-grafted with excellent results.

It is apparent that the burn was occasioned by an error in judgment on the part of the ward nurse when the hot water bottle was placed on Mrs. Lane's leg before it was ascertained that sensation had returned to the leg after the administration of the spinal anesthesia.

On August 16, 1955, Mrs. Lane and her husband instituted action against the United States in the District Court for the Southern District of California. Since the claim arose in a foreign country and is therefore barred under the Federal Tort Claims Act (28 U. S. C. 2680), the cause of action was dismissed on October 3, 1955.

The Department of the Navy favors the payment of a claim by Mrs. Lane in a just and reasonable amount. The very meager information available to this Department indicates that \$1,000 would amply compensate her for the injury, but if she suffered a loss of income, has incurred further substantial medical bills or other expenses, and has suffered a permanent disability an award of \$1,000 might not be adequate. In this connection it should be noted that the records available to the Department of the Navy do not indicate the existence of any permanent disability resulting from this injury.

In view of the foregoing, the Department of the Navy would support the enactment of H. R. 9395 if it is amended to limit the award to \$1,000, plus a just and reasonable amount to compensate Mrs. Lane for the following (if entitlement thereto as a matter of fact otherwise exists): loss of income, medical and related expenses, and permanent disability.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report on H. R. 9395 to the Congress.

For the Secretary of the Navy.

Sincerely yours,

R. Y. McELROY,
*Captain, United States Navy,
Deputy Director, Legislative Liaison.*



